

STATEMENT OF
IVETTE RODRIGUEZ
SISTER OF SGT. CARMELO RODRIGUEZ

BEFORE THE
COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON COMMERCIAL AND ADMINISTRATIVE LAW

H.R. 1478, THE "CARMELO RODRIGUEZ MILITARY MEDICAL
ACCOUNTABILITY ACT OF 2009"

MARCH 24, 2009

Chairman Cohen, Representative Franks and distinguished members of the Subcommittee, thank you for the opportunity to appear before you today to discuss my brother's service to this country, the events that led to his death, and the bill Congressman Hinchey introduced, which is named after him, the Carmelo Rodriguez Military Medical Accountability Act of 2009.

I'm not someone with a big fancy job, or political connections. I'm just a loving sister and mother of two, soon to be three, who lost her brother to a horrific case of medical negligence. I speak not just for my whole family who miss my brother dearly, including his young son Carmelo Rodriguez IV, but I speak for the countless other military families who have been forced to confront similar situations.

On November 16, 2007, when Carmelo passed away, I lost not only my brother but my best friend and an American hero. Carmelo was a decorated Marine and platoon leader who proudly served his country in Iraq. Before, during, and after my brother's service in Iraq his cancer was repeatedly and extraordinarily misdiagnosed as a wart or birthmark.

In 1997, when Carmelo enrolled in the Marines, a physical performed by U.S. Military staff concluded that Carmelo Rodriguez had melanoma present on his right buttocks. However, no action was taken. In March of 2000, Carmelo marked "no" on a medical history report question about cancer -- he was not aware of his melanoma.

During March of 2005, while Carmelo was deployed in Iraq, he saw another military doctor for a growth or sore on his buttock. He was told to keep it clean

and visit the doctor again when he got back to the United States, which would be five months later.

In November of 2005, Carmelo saw that same doctor back in the United States and was directed to dermatology to have the so-called "birthmark" removed for cosmetic purposes. The next year and several months later in April of 2006, while several referrals were "lost in the system," Carmelo's so-called "birthmark" was bleeding and pussing all the time.

Finally, out of frustration and concern for his own health, he took action and made an appointment to see a dermatologist, without a referral. A week after his next appointment he was told he had stage III malignant melanoma.

Carmelo had three surgeries, received radiation and chemotherapy but it was too late. The cancer had spread to his lymph nodes, his liver, kidney, stomach, and throughout his body. The doctors told him that if it had been caught earlier, it would have made a big difference. It probably would have saved his life.

My brother was a young, strong man. His body was reduced from 190 pounds to under 80 pounds. At the age of 29, he died of a skin cancer that should have been caught much, much earlier by the military he so ably served and was counting on.

Carmelo wanted his story to be heard even if his life couldn't be saved, he wanted to ensure that what happened to him would not happen to another service member. On November 16, 2007, with CBS news reporter Byron Pitts at our family's home, my brother passed away.

When Carmelo enlisted in the Marine Corps he swore an oath to live his life according to military standard, to follow orders without question. He did this willingly and without reservation. Carmelo proudly took this oath assuming that the military would care for his well-being. Those who were tasked by the military to provide that care were expected to provide a basic standard of care.

When the medical personnel failed to provide the basic care that would have saved my brother, they hid behind the military. Now that the military failed to live up to their oath, they hid behind a nearly 60 year-old precedent called the Feres Doctrine.

Sadly, my family's story is shared by many others. My question for the military is why, after such a critical failure in health care, has the military not conducted and completed a full investigation into the circumstances that led to my brother's death? Why would this not be done to save the lives of others who currently may be misdiagnosed right now?

My question for Congress is how could it be possible that of all Americans, members of the military and their families are left no recourse in the face of such medical negligence?

I am grateful to Congressman Hinchey for his support. He has never waived in his commitment to my brother, our family, and all service men and women.

What service men and women and their families want and deserve is equal protection under the law.

Thank you.